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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	GEN Docket No. 90-314
)	ET Docket No. 92-100
)	
Amendment of the Commission's)	RM-7617, RM-7760, RM-7782,
Rules to Establish New)	RM-7860, RM-7977, RM-7978,
Narrowband Personal)	RM-7979, RM-7980, PP-4, PP-5
Communications Services)	PP-11, PP-14, PP-35 through
)	PP-40, PP-53, PP-69, PP-79
)	through PP-85

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PETITION FOR CLARIFICATION OF PACIFIC BELL

FCC MAIL BRANCH

Pursuant to Section 1.429(a) of the Commission's rules,¹ Pacific Bell hereby files a Petition for Clarification.

In the Commission's decision in the above-captioned proceeding released on July 23, 1993, the Commission stated that applicants awarded a pioneer's preference, "will be placed on a pioneer's preference track, not subject to competing applications, and if otherwise qualified will receive a license. Other applicants will compete for remaining licenses in the normal licensing process."²

Auctions will now be the normal competitive licensing process. The Commission's language could be taken to mean that applicants awarded a pioneer's preference will not participate

¹ 47 CFR §1.429(a).

² In the Matter of Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, GEN Docket No. 90-314, ET Docket No. 92-100, RM-7617, RM-7760, RM-7782, RM-7860, RM-7977, RM-7978, RM-7979, RM-7980, PP-4, PP-5, PP-11, PP-14, PP-35 through PP-40, PP-53, PP-69, PP-79 through PP-85, First Report and Order, released July 23, 1993, para. 55.

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in any auctions and thereby may be exempt from paying any licensee fee at all. Pacific Bell does not believe that the Commission intends this result.

Such a result would confer too great a benefit on the pioneer's preference licensee and disadvantage competing providers who would pay a license fee. We believe that the pioneer's preference licensee should be required to pay a fee equal to the lowest winning bid for the appropriate licensing area. This would recognize the licensee's pioneering efforts by ensuring a license with a charge equal to the lowest winning bid but would not allow a windfall.

Pacific Bell respectfully requests that the Commission clarify that it did not mean to suggest that pioneer preference licensees will be exempt from license fees and that it will address this issue in its Notice of Proposed Rulemaking on auctions through an amendment to its pioneer preference rules. Pacific Bell recommends that the following language be added to Section 1.402(d) of the pioneer's preference rules: "Provided, however, if the Commission grants licenses for the relevant portion of the spectrum through competitive bidding, the

pioneer's preference licensee will pay a fee equal to the lowest winning bid in the same license area for spectrum of comparable size and utility."

Respectfully submitted,

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Date: September 10, 1993

CERTIFICATE OF SERVICE

I, Alex Kositsky, certify that the following is true and correct:

I am a citizen of the United States, State of California and over eighteen years of age.

My business address is 140 New Montgomery Street, San Francisco, CA 94105.

On September 10, 1993, I served the attached "Petition for Clarification of Pacific Bell and Nevada Bell" by placing true copies thereof in envelopes addressed to the parties in the attached list which envelopes, with postage thereon fully prepaid. I then sealed and deposited in a mailbox regularly maintained by the United States Government in the City and County of San Francisco, State of California.

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